

**REPORT OF THE JUDICIAL RESOURCES COMMISSION
TO THE SUPREME COURT
AND GENERAL ASSEMBLY
CY 1994**

To prepare this report for CY 1994, the Judicial Resources Commission reviewed the CY 1993 report and compared the issues and obstacles outlined there with the improvements made in CY 1994. The Commission also solicited and received information from the Circuit Court Presiding Judges as to problems and progress in this calendar year. The Commission concluded that, despite some progress, the major problems--a shortage of clerical staff; a lack of juvenile facilities, treatment services and personnel; the need for more experienced attorneys and investigative and support staff in the public defender's office to expedite the disposal of criminal cases; and the need for adequate courthouse facilities--remain urgent. The following report is a summary of those findings.

CLERICAL PERSONNEL

The tenet "justice delayed is justice denied" has become the impetus for judicial efforts to insure that a speedy trial and due process in all cases are guaranteed to every Missouri citizen. These efforts are threatened, however, by the lack of adequate clerical support. Despite some recent small gains, staffing levels continue to be a serious concern, particularly in the circuit courts. The statewide court automation project, created in SB 420, will reduce the demand for additional FTE, but will not eliminate the need for some increase. This need is the result of both increasing caseloads, and years of unfunded requests for additional FTE. The workload in recent years has increased at a significantly higher rate than has clerical staff. The Judicial Department budget for FY 1995 sought 155.8 additional FTE for the Circuit Court, including 144 FTE for general workload increases, 7 FTE to deal with new legislative mandates, and 4.8 FTE to provide minimum staffing levels in all the Courthouses. The final appropriation contained funding for 38.8 FTE. There is still the potential for an additional 60 FTE contingent on increased federal reimbursement for child support work.

The proposal for 60 FTE that was adopted by the legislature would allow federal reimbursements in excess of \$1.5 million to be utilized for increased staffing. In March 1994, a proposal for a transaction-based reimbursement method was submitted for federal review. That proposal, which would have produced well in excess of \$1 million in increased reimbursements, was rejected by the federal regional office in August 1994. Efforts were begun immediately to attempt to improve the reporting of time spent under the existing survey method. On December 9, the Circuit Court Budget Committee authorized the allocation of 23.125 additional FTE to be added through this method.

JUVENILE FACILITIES AND TREATMENT SERVICES

Juvenile facilities and treatment services remain a source of concern. In particular, medium security offender facilities and mental health services are largely unavailable. Services designed to maintain and strengthen the family are needed. The number of juveniles certified to stand trial as an adult has created a new set of problems. In CY 1993 (the most recent period for which statistics are available), 239 juveniles were certified, compared to 108 five years ago. With no long-term facilities available, these juveniles frequently serve their sentences in adult prisons with few or no rehabilitation programs. Another factor in the lack of juvenile services is the inability of the courts to include parents in financial assessments to help with expenses. At all levels of the juvenile process, additional FTE are needed to help the courts address the rapidly-growing increase in juvenile crime, as well as the increase in status offenses and child abuse/neglect.

However, progress has been made in several areas. The federal Family Preservation Act provides funds for states to use for juvenile programs; an application for funds has been submitted. The Supreme Court has adopted continuing education requirements for Family Court judges and commissioners, and many attended a seminar sponsored by the National Council of Juvenile and Family Court Judges in 1994. Local committees have been formed to review services currently offered to families and to make recommendations for improvements. Throughout the state, judicial circuits are making plans to expand the services offered to families, especially in evaluation, counseling, and mediation. As of 11/1/94, eight Family Court commissioners have been hired. A Family and Juvenile Court Specialist position, funded through a federal grant, has been added in the State Courts Administrator's Office. This individual will be responsible for working with juvenile and family courts to develop uniform recordkeeping procedures throughout the state; improve in-service training; provide timely information to juvenile and family courts on state and federal court decisions, new court rules and new federal and state legislation; coordinate and improve the present juvenile court statistical reporting system; and provide more uniform and effective liaison with other state agencies and juvenile-related groups such as the Division of Family Services and the Missouri Juvenile Justice Association. A federally-funded alcohol and drug abuse coordinator was also added. This position will assist the courts in identifying options for treating individuals, including juveniles, affected by alcohol and drug abuse.

COURTHOUSE FACILITIES

Poor courthouse facilities continue to be the biggest obstacle to the better utilization of judges, both transferred and senior, and to optimum clerical use. Not only do many older courthouses have too little clerical work space and too few courtrooms, the existing rooms are poorly equipped for jury use. A request for a jury can effectively halt the process until that courtroom can be made available. Courthouses also often lack secure waiting rooms for victims and witnesses.

This past year has seen some improvement in courtroom and courthouse facilities. Greene County has a new courthouse under construction, with an estimated completion date of 12/95. The circuit courtroom in Camden County has been remodeled to comply with ADA

standards. In August, voters approved a sales tax for a new courthouse and jail in Laclede County; and architectural plans are being developed for a courthouse, jail and juvenile facility in Camden County. The funding issue for the Camden County facilities will be on the April 1995 ballot. St. Louis City continues to remodel its courthouse, and Cole County continues work on an expansion project. In Callaway County, a project is underway to bring the courthouse into compliance with ADA standards.

STATE PUBLIC DEFENDER COMMISSION

In Fiscal Year 1994, the State Public Defender Commission and its new Director, J. Marty Robinson, rededicated their efforts to client representation by transferring fourteen employees, formerly assigned managerial and administrative tasks, back to the courtroom and providing direct client representation. Daniel Gralike has been appointed Deputy Director to assist the Director in day to day operations. Every attorney in the Public Defender System now handles cases representing indigent Missourians accused of crimes. Management has been reduced to a minimum in order to maximize efficient use of state resources. In addition, OSPD hired eight new Assistant Public Defenders, two of whom will be in the Appellate Division, and six of whom will be in the Trial Division.

The Missouri Public Defender System has historically been plagued with extremely high turnover. The most experienced Assistant Public Defenders have typically resigned shortly after gaining the experience and training the Missouri State Public Defender System has to offer. While increased funding last fiscal year improved attorney salaries, it did not account for increasing the number of experienced attorneys who are eligible and deserve promotion. The Missouri Public Defender Commission and the Director of the Missouri Public Defender System have placed a high priority on securing the funding necessary to promote experienced attorneys in order to reduce attorney turnover and the inevitable court delays that result from such turnover. While increasing the number of experienced attorneys is our number one priority, the fundamental need for additional investigative and support staff to expedite the disposal of criminal cases remains.

FUNDING FOR SENIOR JUDGES

The lack of sufficient funds to compensate senior judges at the rates established by 476.682 RSMo continues to be a problem. In FY 94, 34 retired judges accepted assignments to serve as senior judges; these senior judges served for 2,905 days. This amounts to 581 weeks of judicial service provided by senior judges where vacancies had occurred due to retirement or illness, to keep dockets current until a replacement was appointed, or where courts were making an effort to remain current. This time translates to almost 13 judgeships in FY 94. Senior judges have made a substantial contribution toward keeping dockets current. In many circuits, they have made the difference between an up-to-date docket, and one that is fraught with delay. This has been done at a much lower cost that would be the case if new judgeships had been created. However, these judges need to be paid fairly for their time and expertise. Billings for senior judges are based on time actually served. In FY 94, the funds appropriated were sufficient to pay judges at only 65.1% of the time billed. While the additional \$60,757 appropriated for FY 95 will address this deficiency, full funding remains an unrealized goal.

TIME STANDARDS

The imposition of time standards by the Supreme Court in July 1993 has had a significant impact. In particular, judges have worked to eliminate unnecessary continuances, and to reduce the number of motions filed. In general, judges across the state have increased their awareness of docket management practices, and have "cleaned up" the case statistics to reach a more accurate view of each court's actual pending caseload. The response from litigants has been mostly positive, since their cases are resolved more quickly. However, courts will require additional assistance to meet the time standards in the future. While much progress has been made in the form of seminars on caseload management and discussions of procedures for meeting the time standards, a great deal remains to be done. For many circuits, additional resources, including judges transferred from other circuits and personnel to monitor case activity and prepare dismissal dockets, will be needed. The time standards, which are to be phased in over a three-year period, become more stringent each year.

CONTINUING/EMERGING NEEDS

Jury management improvements will be pursued in several areas including providing better accommodations, improving compensation for time and expense, and making jury duty in general a more positive experience with greater convenience for those called and selected. Reduction of jury size in criminal cases from twelve to eight continues to be a controversial option for lowering costs and reducing the number of potential jurors that need to be summoned.

Legislation which is passed without appropriations to handle the increased workload continues to cause difficulties for the judiciary. The Commission recommends that the legislature consider the "ripple effect" of the legislation it passes, in particular by considering the potential impact reported in fiscal notes and the related comment memos.

The judicial transfer program initiated by the Supreme Court continues to provide judge resources in areas of high demand. Judges who accept transfers both inside and outside their home circuits are critical to the prompt disposition of cases and to the reduction in pending caseloads that have grown in some areas over the year. As circuits strive to meet case processing time standards, the demand for judicial transfers may be expected to grow. The NEMO project, which successfully reduced the pending caseload in St. Louis County, has been decreased from four judges transferred each week to one judge. At the same time, the Court has ordered the transfer of two judges per week into Jackson County, one judge for one day per week into Jefferson County, and one judge for one day per month into Pettis County. This program is in addition to the regular number of judges transferred to replace judges who are ill, disqualified from a particular case or, for some other reason, are unable to hear a case or cases.

Training for court personnel continues to be a high priority within the judiciary. This year, the Office of State Courts Administrator was able to employ a Judicial Education Specialist to coordinate education programs. The professionalization of this activity should greatly enhance the Judicial Education Committee's ability to provide the numerous educational opportunities necessary to keep clerks current with changing statutes, administrative rules, policies and procedures. Judges need to be kept current with the rapidly changing case and

statutory law, and to be provided with special topic courses in areas such as death penalty cases, adult abuse, domestic relations, and alternative sentencing resources. New judges in particular need more training than the one-week course currently offered. (There will be thirty-two new judges on the bench in January 1995, as well as two new judges who assumed the bench this fall and three circuit court judges who were formerly associate circuit judges.) They also need well-trained support staff if they are to perform their new duties with the utmost accuracy and efficiency. Funding of judicial education programs remains a concern. At its September 1994 meeting, the Judicial Conference adopted a resolution to recommend the support of legislation to create an education fund to train judges (including municipal judges) and related court personnel by increasing court costs. The amount of the increase shall be \$.50 per case including municipal offenses, or \$1.00 per case if municipal offenses are not included.

The recently-created Missouri Commission on the Organization of the Judicial Department will be examining various issues including: circuit court boundaries; judicial and clerical compensation; appointed versus elected circuit clerks; prosecuting attorneys versus circuit attorneys; court costs; juror fees; and a single tier court system.

NEW JUDICIAL PERSONNEL

As the judiciary looks to the coming year, we welcome the new judges who will assume the bench. They are:

New Associate Circuit Judges

Mike Garrett - Barry County
Charles Curless - Barton County
Scott E. Thomsen - Bollinger County
Gary A. Kamp - Cape Girardeau County
Peter Statler - Cape Girardeau County
Bob Bryant - Carroll County
William Collins - Cass County
Joe Burl Phillips - Cedar County
Tom Sodergren - Cole County
Patricia Joyce - Cole County
David Munton - Dade County
Jerry L. Wilkerson - Dent County
Dan J. Crawford - Dunklin County

Wayne Strothmann - Henry County
Joseph Schoeberl - Jasper County
M. Edward Williams - Jefferson County
Greg Kays - Laclede County
Jim Elliott - Maries County
Glen Dietrich - Nodaway County
Jerri Bush - Putnam County
Glenn A. Norton - Ralls County
Terry Cundiff - St. Charles County
Steve Mitchell - Stoddard County
Peter H. Rea - Taney County
Noble I. Leighton - Wright County

New Circuit Judges

James T. Holcomb - 3rd Circuit
Werner A. Moentmann - 8th Circuit
Gary E. Ravens - 9th Circuit
Frank Conard - 11th Circuit
Mary Ellen Young - 17th Circuit
Thomas J. Brown III - 19th Circuit

Joan M. Berger - 22nd Circuit
Jon Dermott - 29th Circuit
R. Jack Garrett - 37th Circuit
J. Edward Sweeney - 39th Circuit
William C. Seay - 42nd Circuit
John Moody - 44th Circuit

REPORT OF THE COMMISSION ON JUDICIAL RESOURCES
DECEMBER 1994

STATEWIDE CASELOAD, TRANSFER AND ASSIGNMENT STATISTICS
FY 1994

Graph 1
Missouri Circuit Court
Cases Filed and Disposed
FY 1994

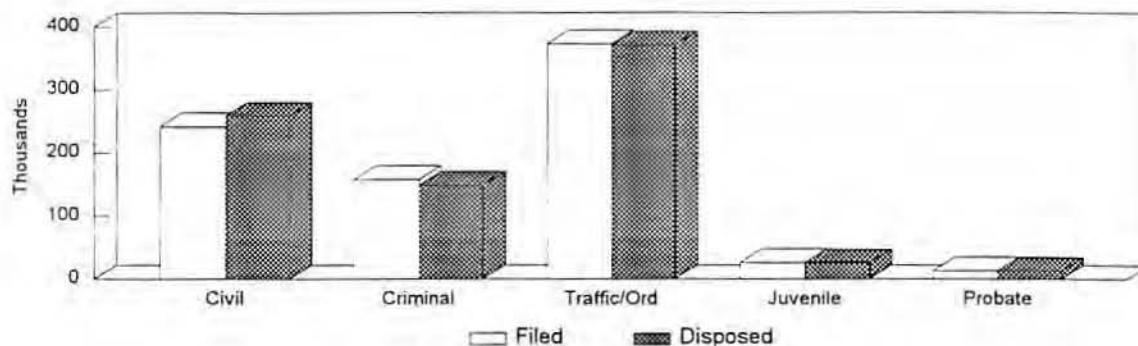


Table 1
Missouri Circuit Court
Cases Filed and Disposed by Case Type
FY 1994

Case Type	Filed	Disposed	*Disposition to Filing Ratio
Civil	241,988	259,070	1.07
Criminal	157,594	148,621	0.94
Traffic/Ord	372,645	370,500	0.99
Juvenile	25,737	25,561	0.99
Probate	12,561	13,240	1.05
Total	810,525	816,992	1.01

*This ratio, calculated by dividing the number of cases disposed by the number filed, gives an indication of how well the courts are keeping up with their workload. A ratio of 1.00 or greater indicates that the courts disposed at least as many cases as were filed. A ratio of less than 1.00 indicates that the courts disposed fewer cases than were filed and experienced an increase in pending caseload.

Table 2
Missouri Circuit Court
Cases Disposed by Manner of Disposition
FY 1994

Case Type	<u>With Trial</u>		<u>Without Trial</u>				<u>Total</u>
	<u>Jury</u>	<u>Court</u>	<u>Uncontested</u>	<u>Plea</u>	<u>Dismissed</u>	<u>Other</u>	
Civil	978	43,668	111,430	-----	97,582	5,412	259,070
Criminal	1,036	1,885	-----	81,191	39,273	25,236	148,621
Traffic/Ord.	27	13,545	-----	320,419	34,328	2,181	370,500
Total	2,041	59,098	111,430	401,610	171,183	32,829	778,191

Note: Other includes such manners of disposition as change of venue, certification and bind over of felony preliminary cases.

Table 3
Missouri Circuit Court
Judge Transfers/Assignments
FY 1994

	<u>No. of Judge Transfers/ Assignments</u>	<u>No. of Days</u>	<u>No. of Individual Case Assignments</u>	<u>Total Civil/ Criminal Cases Disposed</u>
Transfers of Regular Judges Outside Home Circuit	1,081	2,284	953	-----
Senior Judge Assignments	168	2,230	70	4,244